IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 460 of 2007 (M/B)

1. Navneet Agarwal S/o Sri Shyam Sunder Agarwal.
2. Smt. Sangeeta Agarwal W/o Sri Navneet Agarwal.
   Both R/o Municipal No. 11/7/5, Old No. 4,
   Kaulagarh Road, Dehradun. …….. Petitioners

Versus

1. State of Uttarakhand,
   through S.S.P. Dehradun.
2. Station Officer,
   Police Station Dalanwala,
   District Dehradun.
3. Sri Kabir Sharma,
   Authorized Officer, City Financial,
   56 Rajpur Road, Jai Plaza,
   District Dehradun. …….. Respondents

Mr. Arvind Vashishth, Advocate for the petitioners.
Mr. Prabhakar Joshi, Brief Holder for respondents Nos. 1 & 2.
Mr. Ramji Srivastava, Advocate for respondent No. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. Arvind Vashishth, Advocate for the petitioners.

Mr. Prabhakar Joshi, Brief Holder for respondents Nos. 1 & 2.

Mr. Ramji Srivastava, Advocate for respondent No. 3.

They are heard on admission.

2. Petitioner Navneet Agarwal and Smt. Sangeeta Agarwal have filed this writ petition for the following reliefs:

> "(i) a writ, order or direction in the nature of certiorari quashing the impugned First Information Report which has been registered as Case Crime No. 4 of 2007 Under Section 420, 467, 468, 471 IPC at police station Dalanwala, District Dehradun.

(ii) a writ, order or direction in the nature of mandamus commanding the respondents not to arrest and not to harass the petitioners in connection of impugned First Information Report which has been registered as Case Crime No. 4 of 2007 Under Section 420, 467, 468, 471 IPC at police station Dalanwala District Dehradun.

(iii) any other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iv) Award the cost of petition to the petitioner."

3. The petitioners are seeking quashing of the First Information Report, which led to the registration of a case against the petitioners at Crime No. 4 of 2007 at Police Station Dalanwala, District Dehradun for the alleged commission of the offences punishable under Sections 420, 467, 468 and 471 of the IPC.

4. According to the First Information Report lodged by respondent No. 3 Kabir Sharma, Authorised Officer, City Financial, Dehradun, the petitioners obtained loan of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) from the Dehradun branch of City Financial Consumer Finance India Ltd. by mortgaging their immovable property situated in Dehradun without disclosing that the same property was already mortgaged with Maharashtra Bank and by giving incorrect information that the original title deeds of the said land were lost.

5. On due consideration of the submissions of the learned counsel for the parties; the contents of the First Information Report lodged by respondent No. 3 against the petitioners; and the material available in the police case diary, we are of the opinion that no case warranting quashing of the First Information Report and the case registered against the petitioners, in view of the dictum of the Apex Court in the case of **T. Vengama Naidu Vs. T. Dora Swamy Naidu & others** reported in **JT 2007(4) SC 240,** is made out.

6. We are refraining from commenting on the merits of the case lest it may adversely affect the petitioners' case at the trial, which the petitioners are yet to face.

7. The writ petition, therefore, is liable to be dismissed and is hereby dismissed summarily.

(J.C.S. Rawat, J.) 03.05.2007

(Rajeev Gupta, C.J.) 03.05.2007

G